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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 10/803,281 | 03/18/2004 | Billy K. Bayne | 14893US02 | 5650 |
| 23446 7590 01/18/2007 MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661 | | | EXAMINER FOX, CHARLES A | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3652 | |
| SHORTENED STATUTORY PERIOD OF RESPONSE | | MAIL DATE | DELIVERY MODE | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/803,281

Applicant(s)

BAYNE ET AL.

Examiner

Charles A. Fox

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>20061128</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3652

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Redding et al. Regarding claim 11 Redding et al. US 5,024,573 discloses a method of lifting containers comprising the steps of:

operating a cart lift from a position below and inward of a hopper edge to a position where it engages a first lifting point on a refuse cart;

further operating the device to cause a second lift point on said cart to be engaged;

further operating the device to empty the contents of said cart into said hopper.

Regarding claim 13 Redding further disclose providing the hopper edge at the rear of the vehicle.

Claims 11-13 are rejected under 35 U.S.C. 102(a) as being anticipated by Arrez et al. Regarding claim 11 Arrez et al. US 6,503,045 discloses a method of lifting containers comprising the steps of:

operating a cart lift from a position below and inward of a hopper edge to a position where it engages a first lifting point on a refuse cart;

Art Unit: 3652

further operating the device to cause a second lift point on said cart to be engaged;

further operating the device to empty the contents of said cart into said hopper.

Regarding claims 12 and 13 Arrez et al. further disclose providing the hopper edge at the rear or the side of the vehicle.

Claim Rejections - 35 USC § 103

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Redding et al. in view of Arrez et al. Regarding claims 1,4-6,8 and 10 Redding et al. 5,024,573 teach a cart lifter comprising:

a base plate (S) connected to a vehicle;

a face plate (32) attached to said base plate;

a saddle (40) fixed to said face plate;

at least one lifting arm (20) attached to a rotatable shaft at a first end and to said face plate at a second end;

wherein said rotatable shaft rotates at least 210 degrees;

at least one latch arm (80) pivotally connected to the base plate at a first end and to a latch slide at a second end;

wherein said lower point of said face plate is positioned behind the base plate when the device is in a lowered state and capable of rotation such that the top of the face plate is behind the base plate when in the raised position. Redding et al. do not teach the rotation actuator as being a rotary motor. Arrez et al. US 6,503,045 teaches a lift device for carts comprising:

Art Unit: 3652

a base plate;

a frame structure for engaging a cart;

a rotary motor for lifting said frame structure;

at least one arm (64) connecting said frame with said motor for lifting a cart;

a saddle and a sliding latch for securing said cart during dumping;

wherein said device may be mounted on the rear or side of a collection vehicle.

It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Redding et al. with a rotary motor as taught by Arrez et al. in order to simplify the mounting of the actuator as well as reducing its size while using a well known means to operate a lift of this type.

Regarding claim 2 Redding et al. also teach the arm as being connected to an inner surface of the face plate.

Regarding claims 3 and 9 Redding et al. also teach a sliding latch guide (44) attached to the inside of said face plate.

Regarding claim 7 Redding also teach the vehicle as being a rear-loading vehicle.

Claims 14 and 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Redding et al. as applied to claim 11 above, and further in view of Arrez et al. Redding et al. teach the limitations of claim 11 as above, they further teach providing a face plate containing a saddle and a sliding latch and its associated guide. Redding et al. do not teach providing the device with a rotary motor. Arrez et al. teaches providing a lift device for carts comprising:

Art Unit: 3652

- a base plate;
- a frame structure for engaging a cart;
- a rotary motor for lifting said frame structure;
- at least one arm (64) connecting said frame with said motor for lifting a cart;
- a saddle and a sliding latch for securing said cart during dumping;

wherein said device may be mounted on the rear or side of a collection vehicle.

It would have been obvious to one of ordinary skill in the art, at the time of invention to modify the methods taught by Redding et al. by providing a rotary motor as taught by Arrez et al. in order to simplify the mounting of the actuator as well as reducing its size while using a well known means to operate a lift of this type.

Response to Amendment

The amendments filed on November 28, 2006 have been entered into the record.

Response to Arguments

Applicant's arguments filed November 28, 2006 have been fully considered but they are not persuasive. Regarding claims 1-5, the applicant argues that neither reference cited teaches the upper portion of the faceplate as being capable of being rotated to a position where it is above and substantially behind the base plate. This limitation is clearly shown in Figure 5 of the Arrez et al. reference and Figure 9 of the Redding et al. reference. The same figures also teach the limitations applicant argues are lacking in the same references regarding claims 6-10. The point of what is called the hoppers lower edge (102) as shown in Figures 15-17 appears to be the lip of the

Art Unit: 3652

rear opening to the hopper, as such the figures referenced above meet the limitations of claims 1 and 6 and the claims are hereby finally rejected.

Regarding the rejections of claims 11-15 both cited references teach the refuse is dumped into the hopper at a location substantially inward of the lower hopper edge as defined by the applicant. If it were not the devices disclosed by both Redding et al. and Arrez et al. would dump their refuse upon the ground, which they do not. The claims are hereby finally rejected.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached between 7:00-4:00 Monday-Thursday.

Art Unit: 3652

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine A. Matecki can be reached at 571-272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

 1-13-07
Charles A. Fox
Examiner
Art Unit 3652